FEB 15 PAGE 2

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1990

NO. 90-992

STATE OF NEVADA ET AL., PETITIONERS

v.

JAMES D. WATKINS, ET AL.

OPPOSITION OF RESPONDENTS-INTERVENORS
ARIZONA PUBLIC SERVICE COMPANY, ET AL.
TO MOTION TO DEFER CONSIDERATION

Respondents-Intervenors Arizona Public Service Company, et al. hereby support the Federal Respondents in opposing the Motion to Defer Consideration filed by Petitioners the State of Nevada, et al.

The Nuclear Waste Policy Act of 1982, as amended, 42 U.S.C. § 10101, et seq. ("NWPA"), directs the Department of Energy ("DOE") to characterize the Yucca Mountain, Nevada site to determine its suitability for the location of a deep geologic repository for the disposal of spent nuclear fuel and high-level radioactive waste resulting from the commercial generation of nuclear power and the government's defense activities. 42 U.S.C. § 10133(a). Congress' intent in enacting the NWPA was to provide a schedule and a process that would result in the timely and safe disposal of the nation's spent nuclear fuel and high-level

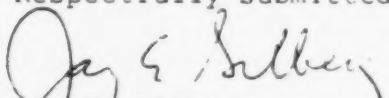
radioactive waste. Despite the clear Congressional directive to characterize the Yucca Mountain site, DOE has been prevented from proceeding with this effort, primarily as a result of a number of actions taken by the State of Nevada.

As explained in the opposition to the motion filed by the Federal Respondents, Nevada has refused to process several applications filed by the DOE for state permits that are a necessary prerequisite to the conduct of site characterization activities. As a result of this action, the United States filed a complaint over a year ago in the United States District Court for the District of Nevada seeking an injunction to compel Nevada to process its permit applications. At Nevada's request, and over the United States' objections, the District Court stayed that action pending the decision of the United States Court of Appeals for the Ninth Circuit in the case below, and has continued the stay pending this Court's disposition of the Petition for Certiorari filed herein. Given the direct relationship between the Court's disposition of the Petition for Certiorari and the resolution of the issues pending before the District Court, it is clear that Nevada's motion represents yet another attempt to further delay DOE's ability to obtain access to the Yucca Mountain site to fulfill its statutory mandate. Any unnecessary further delay in the resolution of this controversy would be contrary to the compelling national interest, reflected in the NWPA, in providing for the permanent disposal of radioactive waste.

CONCLUSION

For the reasons stated above and in the Federal Respondents opposition, the motion to defer consideration should be denied.

Respectfully submitted,



Jay E. Silberg
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Respondents-Intervenors Arizona Electric Public Service Company, et al.

CERTIFICATE OF SERVICE

Pursuant to Rule 28 of the Rules of the Supreme Court of the United States, I hereby certify that I have, on this 13th day of February 1991, deposited in first class mail with postage affixed, a copy of the foregoing Opposition of Respondents-Intervenors Arizona Public Service Company, et. al. to Motion to Defer Consideration on the following:

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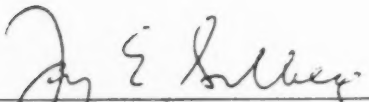

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